



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Paper No. 21

**MAIL**

**JUL - 2 2004**

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

NIXON & VANDERHYE, P.C.  
1100 N. GLEBE ROAD  
8TH FLOOR  
ARLINGTON VA 22201

In re Application of :  
Mark Leather, et al. :  
Application No. 09/726,226 :  
Filed: November 28, 2000 :  
For: METHOD AND APPARATUS FOR ANTI- :  
ALIASING IN A GRAPHICS SYSTEM :

DECISION ON PETITION

This is a decision on the request filed December 9, 2003, which is treated as a Petition to Withdraw the Holding of Abandonment pursuant to 37 C.F.R. § 1.181(a). No fee is required.

The application was held abandoned for failure to respond to the Office Communication mailed on March 13, 2003, which set a shortened statutory period of THREE MONTHS for applicant to respond. A Notice of Abandonment was mailed on October 21, 2003.

Petitioner alleges to have timely filed a proper response to the Non-final Office Action on September 15, 2003 by facsimile transmission (the next business day is September 15, 2003 since September 13 falls on a Saturday). In support, petitioner has provided as evidence, a copy of the response to the Non-final Office Action, which included a Certificate of Facsimile Transmission to the Office with a transmission date of September 15, 2003. The Certificate of Facsimile Transmission was signed by the Practitioner, who is also the instant Petitioner.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. [emphasis added]

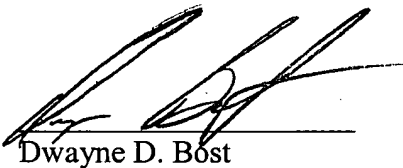
Also attached to the petition is a copy of the USPTO's Auto-Reply Facsimile Transmission receipt which indicates a "fax Information Date Received" of "9/16/03 12:02 AM [Eastern

Daylight Time]” – two minutes after midnight on 9/16/03. However, MPEP 502.01 states that “if the Certificate of Transmission is available, then the facsimile correspondence may be considered timely filed on that day if it contains a Certificate of Transmission and is in compliance with 37 CFR 1.8(a)(1)(i)(B) and (ii)” [emphasize added]. Since the response to the Non-final Office Action included a Certificate of Facsimile Transmission to the Office with a transmission date of September 15, 2003, the response is considered timely.

Accordingly, Petitioner has complied with the requirements of 37 C.F.R. §1.8(a) above. The petition is **GRANTED**.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the technical support staff for entry of the amendment which accompanied the petition. Thereafter, the application will be forwarded to the examiner for appropriate action in due course.



Dwayne D. Bost  
Special Program Examiner  
Technology Center 2600  
Communications